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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/810,928      | 03/25/2004  | Dwain E. Morse       | 17001-7             | 1913             |

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SHELDON MAK ROSE & ANDERSON PC  
100 East Corson Street  
Third Floor  
PASADENA, CA 91103-3842

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| EXAMINER |
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REIFSNYDER, DAVID A

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

1723

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| MAIL DATE | DELIVERY MODE |
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07/24/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                  |                              |  |
|------------------------------|----------------------------------|------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/810,928    | Applicant(s)<br>MORSE ET AL. |  |
|                              | Examiner<br>David A. Reifsnnyder | Art Unit<br>1723             |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 July 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27-29 is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/06; 12/06</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 24 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 24 is not an original claim, as the applicant has labeled it. Originally claim 24 depended from claim 21, not claim 24. Furthermore, depending claim 24 from claim 24 does not make sense.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Arnaud who discloses a contaminated liquid mixing apparatus comprising: a reactor head including a liquid inlet and a receiving chamber in fluid communication with the inlet; a gas injection port formed in the reactor head; a tube extending from the reactor head and in fluid communication therewith; a cartridge disposed within the receiving chamber having a plurality of ports in fluid communication with the receiving chamber. (Figs. 15-17; col. 11, line 63 to col. 9 line 63)

Claims 1-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Lecoffre et al. who discloses a contaminated liquid mixing apparatus comprising: a reactor head including a liquid inlet and a receiving chamber in fluid communication with the inlet; a gas injection port formed in the reactor head; a tube extending from the reactor head and in fluid communication therewith; a cartridge disposed within the receiving chamber having a plurality of ports in fluid communication with the receiving chamber. (Figs. 5a-5b; col. 10, lines 24-60)

Claims 1-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Greene et al. who discloses a contaminated liquid mixing apparatus comprising: a reactor head including a liquid inlet and a receiving chamber in fluid communication with the inlet; a gas injection port formed in the reactor head; a tube extending from the reactor head and in fluid communication therewith; a cartridge disposed within the receiving chamber having a plurality of ports in fluid communication with the receiving chamber. (Figs. 2-6; col. 4, line 22 to col. 5, line 56)

***Allowable Subject Matter***

Claims 27-29 allowed.

The main reason for the allowance of claim 27 over art is that the prior art of record fails to describe or fairly suggest the mixing apparatus as having all the limitations claimed as whole and including **wherein each port is adapted with threads.**

The main reason for the allowance of claims 28-29 over art is that the prior art of record fails to describe or fairly suggest the mixing apparatus as having all the limitations claimed as whole and including **at least one flow restrictor removable disposed within one of the plurality of ports.**

***Response to Arguments***

Applicant's arguments filed on July 13, 2007 in regards to original claim numbers 1-26 have been fully considered but they are not persuasive.

Regarding claims 1-26; the applicant's sole argument is that neither Arnould, Lecoffre et al. or Greene et al. discloses or suggests a plurality of ports "adapted to receive a flow restrictor to permit selective control of velocity and flow volume".

It is the Examiner's position that Arnould, Lecoffre et al. or Greene et al. all disclose a plurality of ports. In addition, the language that the ports are "adapted to receive a flow restrictor to permit selective control of velocity and flow volume" is **Intended Use** and it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art

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apparatus satisfying the claimed structural limitations. *Ex parte Masham, 2 USPQ2d 1647 (1987)*. Furthermore, on the last paragraph of page 10 through the first paragraph of page 11 of his remarks, the applicant acknowledges that in claims 1-26, the language that each of the ports receives a flow restrictor is the Intended Use of the ports.

### **Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

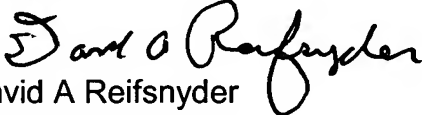
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Reifsnyder whose telephone number is (571) 272-1145. The examiner can normally be reached on M-F 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on (571) 272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
David A Reifsnyder  
Primary Examiner  
Art Unit 1723

DAR